

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KIM GOODLING and
NORMAN GOODLING, SR.,

Plaintiffs,

v.

JOHNSON & JOHNSON and
ETHICON, INC.,

Defendants.

No. 4:21-CV-00082

(Chief Judge Brann)

ORDER

FEBRUARY 10, 2022

In accordance with the accompanying Memorandum Opinion, **IT IS
HEREBY ORDERED** that the Defendants' motion to dismiss (Doc. 16) is
GRANTED IN PART, DENIED IN PART:

1. The motion to dismiss as to Counts I (Negligence), II (Design Defect – Negligence & Strict Liability), IV (Failure to Warn – Negligence & Strict Liability), X (Negligent Infliction of Emotional Distress), and XIII (Loss of Consortium) is **DENIED**.
2. The motion to dismiss as to Counts III (Manufacturing Defect – Negligence & Strict Liability), V (Common Law Fraud), VI (Breach of Express Warranty), VIII (Constructive Fraud), and XI (Fraudulent Concealment) is **GRANTED WITHOUT PREJUDICE**. If Plaintiffs

Kim Goodling and Norman Goodling, Sr. elect to plead over, they must file the amended complaint on or before March 3, 2022.

3. The motion to dismiss as to Counts VII (Breach of Implied Warranty), IX (Negligent Misrepresentation), XII (Unjust Enrichment), and XIV (Punitive Damages) is **GRANTED WITH PREJUDICE**.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge